IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 15554 of 2005(B)

PETITIONER:

**DILIP S., (WORK ASST.K.S.R.T.C.
PSC RANK LIST RANK NO.205), AGED 27 YEARS,
S/O. A. SREEKANDAN, KIZHAKUMBARA PUTHEN VEEDU,
ERUKUNNAM, KACHANI P.O., THIRUVANANTHAPURAM
NOW RESIDING AT `REVATHI NILAYAM', MUKKOLA,
KALLAMPOTTA, P.O. NETTAYAM.**

**BY ADV. SRI.P.SANTHOSH KUMAR (PANAMPALLI NAGAR)
SRI.LUIZ GODWIN D'COUTH**

RESPONDENTS:

**1. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.**

**2. THE KERALA PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS SECRETARY, OFFICE OF
THE KERALA PUBLIC SERVICE COMMISSION,
THIRUVANANTHAPURAM.**

**3. THE MANAGING DIRECTOR, K.S.R.T.C.,
THIRUVANANTHAPURAM.**

**BY ADV. SHRI.JOHNSON P.JOHN, SC, KSRTC
ADV. SRI. P.C.SASIDHARAN, SC FOR PSC
GOVERNMENT PLEADER SRI. P.NANDAKUMAR**

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 15554/2005 B

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE NOTIFICATION BY THE R2 DT. 17/03/98.

EXT.P2. COPY OF THE EXPERIENCE CERTIFICATE DT. 8/5/98.

EXT.P3. COPY OF THE RANK LIST DT. 28/10/2003 PUBLISHED BY THE R2.

EXT.P4. COPY OF THE SHOW CAUSE NOTICE DT. 16/2/2005.

EXT.P5. COPY OF THE EXPLANATION BY THE PETITIONER DT. 4/3/2005.

EXT.P6. COPY OF THE CERTIFICATE BY THE PETITIONER DT. 4/3/2005.

EXT.P7. COPY OF THE ORDER DT. 4/4/05 BY THE R2.

True copy

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K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 15554 OF 2005-B

REFERENCE ORDER

The petitioner was a candidate, who applied for the post of Work Assistant in the Kerala State Road Transport Corporation, pursuant to Ext.P1 notification issued by the P.S.C., inviting applications for the said post. As per the notification, the candidate should have three years' experience of working in a workshop. Ext.P2 is the certificate produced by the petitioner to show that he has got the necessary experience. Accepting the said certificate, the petitioner was included in the rank-list. Later, he was served with Ext.P4 notice, proposing to remove him from the rank-list for the reason that the experience of three years claimed by him is not one obtained after the completion of 18 years of age. The petitioner submitted Ext.P5 reply. Along with Ext.P5, he has produced a fresh experience certificate Ext.P6. But, the P.S.C removed the petitioner from the rank-list by Ext.P7 order. This Writ Petition was filed, challenging Ext.P7.

2. According to the petitioner, there is no stipulation in Ext.P1 notification that the experience acquired should be after attaining he age of 18 years. Therefore, the decision of the P.S.C to remove him from the rank-

list is illegal, it is submitted.

3. The P.S.C has filed a counter affidavit, in which it is submitted that as per Rule 10(ab) of Part II, K.S. & S.S.R., the experience prescribed in the Special Rules for appointment to a post should be the experience gained after acquiring the basic qualification prescribed for the post. The attainment of the age of 18 years is one of the essential qualifications. So, the prescribed qualification of experience should also be gained after attaining the said age.

4. Heard. I think the view taken by the P.S.C is certainly a plausible view, regarding the interpretation of the Rules. The same cannot be said to be perverse or illegal. So, it is not proper for this Court to interfere with the decision of the P.S.C, which is the stand taken by it consistently in all selections. But, the learned counsel for the petitioner brought to my notice a decision of this Court in **Subash Kizhakkevreettil v. K.P.S.C.** (I.L.R. 2007 (2) Kerala 525). The said decision fully supports the view canvassed by the petitioner. The learned counsel for the P.S.C pointed out that the P.S.C has already filed an appeal against the said decision. Since I feel that it is not proper for this Court to interfere with the decision of the P.S.C., in view of the principles laid down by the Full Bench of this Court in **Pulomaja**

Devi v. Gopinathan Nair (1975 KLT 111), to avoid conflicting decisions, this writ petition is referred to be heard by a Division Bench.

The Registry shall place the papers before the Hon'ble Chief Justice for appropriate orders.

5th June, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/